

REMARKS/ARGUMENTS

The Applicant originally submitted Claims 1-22 in the application. Previously in an election restriction Claims 1, 3, 5, 6, 7, 9, 11, 14, 16, 18 and 21 were elected and Claims 2, 4, 8, 10, 12-13, 15, 17, 19-20 and 22 were withdrawn. In the present response, the Applicant has amended independent Claim 1. Support for the amendment can be found, *e.g.*, in the paragraph beginning on line 23 of page 6 of the original specification. No other claims have been canceled or added. Accordingly, Claims 1, 3, 5, 6, 7, 9, 11, 14, 16 and 21 are currently pending in the application.

I. Rejection of Claims 1, 3, 5 and 7 under 35 U.S.C. §102

The Examiner has rejected Claims 1, 3, 5 and 7 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,442,108 to Kurihara, *et al.* (hereinafter "Kurihara"). The Applicant believes the invention as presently claimed, however, is neither shown nor suggested in Kurihara. More specifically, the Applicant fails to find where Kurihara teaches or suggests deactivating recording on a magnetic storage media when a pre-existing signal detection element detects a pre-existing electronic information signal stored on the magnetic storage media as recited in now amended independent Claim 1.

The Examiner cites S1-7 in Fig. 6 and column 5, lines 35-35 of Kurihara to assert that Kurihara discloses that when a tape is found blank, the audio data, song title, or count are recorded. (*See Examiner's Action of October 1, 2008, page 3.*) Claim 1, however, has been amended to more clearly point out that recording is deactivated when a pre-existing electronic information signal stored on a magnetic storage media is detected. The Examiner appears to equate the claimed pre-existing electronic signal with previously recorded data, audio, song title, or count. (*See Examiner's*

Action of October 1, 2008, page 3.) Kurihara teaches that when pre-existing electronic information is detected on DAT tape cassette 15 in step S1-6 (answer of whether tape is blank in step S1-6 is NO), table of content (TOC) data recorded at a start of the DAT tape 15 is read out and recorded to RAM 23 in step S1-13, DAT tape 15 rewinds to an acquired address in step S1-14, and then, *inter alia*, Digital Data Storage (DSS) system 27 records sequentially music information received by DSB transceiver 11. (*See, e.g.*, column 5, line 62, through column 6, line 10.)

Thus, Kurihara explicitly teaches that music information received is recorded to a specific acquired address if pre-existing information is detected, *i.e.*, the tape is not blank. Kurihara does not teach or suggest deactivating recording once pre-existing information is detected but, rather, teaches recording music information at a specific location if pre-existing information is detected. As such, Kurihara does not teach or suggest recording is deactivated when a pre-existing electronic information signal stored on a magnetic storage media is detected and, therefore, does not anticipate presently amended independent Claim 1 and Claims that depend thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102(e) rejection of Claims 1, 3, 5, and 7 and allow issuance thereof.

II. Rejection of Claims 6, 9, 11, 14, 16, 18 and 21 under 35 U.S.C. §103

The Examiner has rejected Claims 6, 9, 11, 14, 16, 18 and 21 under 35 U.S.C. §103(a) as being unpatentable over Kurihara in view of Official Notice. The Examiner rejects independent Claims 9 and 16 for the same reasons as independent Claim 1, citing Official Notice to assert that it is well known in the art at the time of the invention was made to record video signal in tape. (*See* Examiner's Action of October 1, 2008, pages 4-5.) As established above, Kurihara does not teach or

suggest all of the elements of presently amended independent Claim 1. Analogously, Kurihara does not teach or suggest all of the elements of independent Claims 9 and 16. As such, independent Claims 1, 9, and 16 and Claims that depend thereon are not obvious and patentable in view of the cited combination of Kurihara and Official Notice. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 6, 9, 11, 14, 16, 18, and 21 and allow issuance thereof.

III. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1, 3, 5, 6, 7, 9, 11, 14, 16, 18 and 21.

The Applicant requests the Examiner to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Steven J. Hanke".

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